

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #7	CCRB Case #: 201708786	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/22/2017 10:50 PM	Location of Incident: 2308 University Avenue; 52nd Precinct stationhouse	Precinct: 52	18 Mo. SOL 4/22/2019	EO SOL 4/22/2019	
Date/Time CV Reported Tue, 10/24/2017 12:08 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/24/2017 12:08 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			052 PCT
2. SGT Frank Aliffi	00234	939856	052 PCT
3. SGT William Paterno	03583	946096	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Anthony Terilli	28131	962132	052 PCT
2. SGT Jeffrey Griffin	01105	934963	052 PCT
3. POM Jack Antunes	04144	952416	052 PCT
4. POM Andrew Ruiz	11892	962070	052 PCT
5. POM Timothy Burke	17244	954584	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Frank Aliffi	Force: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi used physical force against § 87(2)(b)	
B.SGT Frank Aliffi	Abuse: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi interfered with § 87(2)(b)'s use of a recording device.	
C.SGT Frank Aliffi	Abuse: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi damaged § 87(2)(b)'s property.	
D. An officer	Discourtesy: On October 22, 2017, at the 52nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
E.SGT William Paterno	Abuse: On October 24, 2017, at the 52nd Precinct stationhouse, Sergeant William Paterno did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

On October 24, 2017, § 87(2)(b) filed this complaint via phone with the CCRB.

On October 22, 2018, at approximately 10:50 p.m., Sgt. Frank Aliffi, PO Jack Antunes, PO Anthony Terilli, and other officers from the 52nd Precinct responded to a report of a disorderly group in front of 2308 University Avenue in the Bronx. § 87(2)(b) began recording the conversation he had with Sgt. Aliffi. A short time later, Sgt. Aliffi allegedly slapped § 87(2)(b)'s phone from § 87(2)(b)'s left hand, injuring § 87(2)(b)'s hand and damaging the phone (**Allegation A – Force, unsubstantiated; Allegation B – Abuse of Authority, § 87(2)(g) Allegation C – Abuse of Authority, § 87(2)(g)**). Sgt. Aliffi immediately began handcuffing § 87(2)(b) who was arrested and charged with a local law violation, resisting arrest, obstructing governmental administration, unlawful assembly, selling alcoholic beverages without a license, and three counts of disorderly conduct.

§ 87(2)(b) was transported to the 52nd Precinct stationhouse and placed into a cell. § 87(2)(b) spoke with an unidentified officer who accused him of “bullshitting” because § 87(2)(b) had misidentified another officer while complaining about the incident (**Allegation D – Discourtesy, § 87(2)(g)**).

On October 24, 2017, at approximately 11:05 a.m., § 87(2)(b) visited the stationhouse and attempted to file a complaint against Sgt. Aliffi. The desk officer, Sgt. William Paterno, allegedly refused to process § 87(2)(b)'s complaint (**Allegation E – Abuse of Authority, § 87(2)(g)**).

Findings and Recommendations

Allegation Not Pleaded

§ 87(2)(b) alleged that an officer, identified by the investigation as PO Antunes, shone his flashlight at § 87(2)(b) as he was recording with his cell phone. While § 87(2)(b) believed that this was done to prevent him from recording, § 87(2)(b) did not specifically state that PO Antunes pointed his flashlight directly at the camera [01 Board Review]. Further, § 87(2)(b)'s video, which was reviewed at his attorney's office but not released to the CCRB, showed PO Antunes holding his flashlight but did not capture him pointing it directly at the camera or taking any actions which obstructed § 87(2)(b)'s ability to record [02 Board Review]. Further, this incident occurred at 10:30 p.m., at time at which it would have been appropriate for officers to utilize their flashlights.

Based on these facts, an interference with recording allegation was not pleaded against PO Antunes.

Allegation A – Force: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi used physical force against § 87(2)(b)

Allegation B – Abuse of Authority: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi interfered with § 87(2)(b)'s use of a recording device.

Allegation C – Abuse of Authority: On October 22, 2017, at 2308 University Avenue in the Bronx, Sergeant Frank Aliffi damaged § 87(2)(b)'s property.

§ 87(2)(b) acknowledged playing loud music through a large speaker throughout the night, which resulted in multiple visits from officers. During the final visit, Sgt. Aliffi was aware that § 87(2)(b) was recording and stated that it was okay for him to do so. § 87(2)(b) provided his ID to Sgt. Aliffi, after which they debated whether § 87(2)(b) had previously been instructed to turn down his loud music. During this conversation, Sgt. Aliffi slapped the phone from § 87(2)(b)'s left hand, injuring § 87(2)(b)'s left pinky. The phone fell onto the hood of a nearby parked vehicle. Officers placed § 87(2)(b) against a vehicle, where he denied resisting but informed officers that they were hurting his arm.

§ 87(2)(b) stated that later, at the stationhouse, he informed an officer in the cell area that he would be willing to provide a written statement concerning the incident if it would “make things better.” He wrote a brief statement on a blank sheet of paper indicating that officers treated him with respect and did not injure him. § 87(2)(b) was later informed that his arrest was still going to be processed. He stated that he felt “played” because he had only recanted his previous assertion that he was injured because he thought that it would result in his immediate release.

Following his arrest, § 87(2)(b)'s phone was vouchered as arrest evidence. § 87(2)(b) did not see the phone but was given vouchers which described the phone as scratched, cracked, and in poor condition [03 Board Review]. § 87(2)(b) stated that he had purchased the phone two months prior to the incident, and that the phone was in good condition. He believed that the damage specified on the voucher was caused by Sgt. Aliffi [01 Board Review].

§ 87(2)(b) reported that he took video of this incident and provided the video to his attorney, § 87(2)(b). § 87(2)(b) allowed the investigator to visit her office and view the video, though she declined to release it to the CCRB. The video was slightly over 90 seconds long. At the 50 second mark, Sgt. Aliffi asked § 87(2)(b) to get the camera out of his face. A physical struggle immediately followed, and the camera moved erratically as it was pointed toward the ground. There was no clear evidence that the phone was slapped out of § 87(2)(b)'s hand, though the reason for the sudden change in camera angle was unclear. As the struggle continued over the next 30 seconds, § 87(2)(b) was heard asking why the officers were hurting him, trying to break his arm, and trying to break his finger [02 Board Review].

The Pre-hospital Care Report indicated that § 87(2)(b) reported that his right pinky was injured when an officer attempted to handcuff him. The document notes that no deformities, swelling, or bleeding were evident. According to documents from St. Barnabas Hospital, § 87(2)(b) reported to medical staff that he was thrown around and mistreated by the NYPD, and that he felt his finger bend outwards. § 87(2)(b) complained of pain to his right pinky and stated that he believed it may have been broken. § 87(2)(b) was ultimately diagnosed with a sprained finger [see Privileged Medical Documents].

Sgt. Aliffi stated that he had no issue with § 87(2)(b) recording on his phone. However, as their conversation continued, § 87(2)(b) held his phone inches from Sgt. Aliffi's face, refused to provide his ID, and seemed to be intoxicated. Sgt. Aliffi felt that § 87(2)(b) could have punched him or used the phone as a weapon. Given this issue, as well as the fact that § 87(2)(b) had refused to provide his ID, Sgt. Aliffi decided to handcuff § 87(2)(b). He grabbed § 87(2)(b)'s hand. Sgt. Aliffi did not remember if this was the hand in which § 87(2)(b) had been holding his phone. § 87(2)(b) resisted and a brief struggle ensued. Sgt. Aliffi did not know what happened to § 87(2)(b)'s phone during the handcuffing process. He did not remember slapping the phone from § 87(2)(b)'s hand or seeing the phone drop onto a parked car or elsewhere. He denied taking any actions to interfere with § 87(2)(b)'s ability to record other than handcuffing him [04 Board Review].

PO Terilli stated that he observed § 87(2)(b) take out his phone and "shove" it close to Sgt. Aliffi's nose. The officers then decided to arrest § 87(2)(b) because he had refused to turn down the music and provide his ID. According to PO Terilli, an unidentified officer grabbed § 87(2)(b)'s right hand, and PO Terilli grabbed § 87(2)(b)'s left hand. He did not remember in which hand § 87(2)(b) had been holding his phone. PO Terilli did not remember observing Sgt. Aliffi or any other officer strike § 87(2)(b)'s phone from his hand. § 87(2)(b) backed up and pulled away as the officers attempted to handcuff him.

PO Terilli acknowledged that § 87(2)(b) complained of an injury to his hand while at the stationhouse but added that § 87(2)(b) later provided a written statement of his own volition stating that no officer injured him. PO Terilli also took photos of § 87(2)(b)'s hands to demonstrate that no redness, swelling, or other signs of injury were present [18 Board Review]. In regard to the vouchers he prepared, which noted that § 87(2)(b)'s phone was scratched, cracked, and in poor condition, PO Terilli stated that he believed this damage to be preexisting because the damage did not appear to have been incurred recently. Rather, it appeared to have been accumulated over time. He did not take any pictures of the phone and did not independently recall the exact nature of the damage [05 Board Review].

PO Andrew Ruiz testified that he observed § 87(2)(b) recording the incident with his phone held inches from Sgt. Aliffi's face. An unidentified officer ordered § 87(2)(b) to place his hands behind his back, but § 87(2)(b) did not comply. Sgt. Aliffi then grabbed § 87(2)(b) by the wrist. PO Ruiz's testimony concerning the events which followed was inconsistent. He first stated that § 87(2)(b) flailed the arm which Sgt. Aliffi had grabbed, and that this action caused § 87(2)(b)'s phone to fly out of his hand. However, he later revealed that he was not actually looking at § 87(2)(b)'s hand at the time and did not see what caused the phone to fly out of his hand. Regardless, PO Ruiz denied that Sgt. Aliffi struck the phone from § 87(2)(b)'s hand [06 Board Review].

PO Timothy Burke stated that he performed crowd control during the incident and denied witnessing the interaction between § 87(2)(b) and officers. He denied observing, hearing, or learning of any of the alleged misconduct [09 Board Review].

The only Threat, Resistance, or Injury (TRI) worksheet generated for this incident was prepared by PO Antunes. The TRI noted that § 87(2)(b) refused to place his hands behind his back,

pushed and pulled away, and attempted to avoid being handcuffed. It states that no force was used by MOS and § 87(2)(b) suffered no injuries. A handwritten note, signed by § 87(2)(b) and attached to the TRI worksheet, stated that officers treated § 87(2)(b) with respect and that he arrived at the 52nd Precinct stationhouse with no injuries [07 Board Review]. The arrest report prepared by PO Terilli charged § 87(2)(b) with resisting arrest, obstructing governmental administration, disorderly conduct, and unlawful assembly, among other charges, but documented that no force was used against § 87(2)(b) [08 Board Review].

Sgt. Aliffi, PO Terilli, and PO Ruiz asserted that § 87(2)(b) resisted arrest, and this charge is reflected on his arrest report. However, no officer acknowledged using or observing the force alleged by § 87(2)(b) and no such force was documented.

§ 87(2)(b) S § 87(2)(g) and his CCRB testimony regarding the injury was supported in part by his medical records, which revealed that § 87(2)(b) complained of an injury to his pinky sustained during the handcuffing process and noted that he was ultimately diagnosed with a sprained right pinky. However, his medical records contained no mention of an officer striking a phone from § 87(2)(b)'s hand or an injury resulting from such an action.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation D – Discourtesy: On October 22, 2017, at the 52nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that he was inside a cell when he observed a white, bald, fat male officer who wore a white shirt and had a guttural voice. During a brief conversation, this officer accused § 87(2)(b) of “bullshitting” because § 87(2)(b) mistook another officer for Sgt. Aliffi while complaining about the incident [01 Board Review].

All of the officers interviewed denied hearing the alleged discourteous statement or observing § 87(2)(b) speaking with any officer in a white shirt or holding the rank of lieutenant or above [05-07, 09 Board Review].

The tour 3 roll call for October 22, 2017, revealed that no officer holding the rank of Lieutenant or above was scheduled to work at that time [10 Board Review]. No officers of this rank were noted as being present in the Command Log [11 Board Review].

A search of CTS on March 6, 2018, determined that one Captain and four Lieutenants were assigned to the 52nd Precinct. According to the MOS photo system, Captain Coleman is a 6'2", 175-pound white male with a full head of salt-and-pepper hair. He does not match § 87(2)(b)'s description of the subject officer. Of the four Lieutenants, only Lieutenant Kreshnik Bakraqi – a bald, white male – matched § 87(2)(b)'s description. However, Lieutenant Bakraqi's memo book revealed that he was not working on October 22, 2017 [12 Board Review, see IAs].

None of the officers interviewed acknowledged observing § 87(2)(b) speak with an officer holding the rank of Lieutenant or above. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b).

Allegation E – Abuse of Authority: On October 24, 2017, at the 52nd Precinct stationhouse, Sergeant William Paterno did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) testified that he visited the 52nd Precinct stationhouse at 9:00 a.m. on October 24, 2017, and spoke with Sgt. Paterno in order to file a complaint against Sgt. Aliffi. Sgt. Paterno informed § 87(2)(b) that he was very busy, and that there were other ways to file a complaint, such as calling 311 or 1-800-PRIDE. § 87(2)(b) offered to pick his son up from school and then return to the stationhouse to file the complaint, but Sgt. Paterno stated that this was not acceptable because it was a long process. § 87(2)(b) stated that this was fine and agreed to call 311 [01 Board Review].

§ 87(2)(b)'s wife, § 87(2)(b) visited the stationhouse with § 87(2)(b). She stated that § 87(2)(b) spoke with the desk officer, who generally matched Sgt. Paterno's physical description, and asked to file a complaint about officers injuring his finger during his arrest. The desk officer denied both requests because § 87(2)(b)'s arresting officer was not present and because he did not have time. The desk officer told § 87(2)(b) that he should call 1-800-PRIDE. § 87(2)(b) said, "Okay, no problem," and left the stationhouse to make the complaint on his own [13 Board Review].

Sgt. Paterno acknowledged being present at the desk and fielding § 87(2)(b)'s request to file a complaint, though he did not remember the details of § 87(2)(b)'s complaint. Sgt. Paterno informed § 87(2)(b) that he was involved in other tasks at the stationhouse at the time, and that it was going to take him some time to complete the complaint process. Sgt. Paterno informed § 87(2)(b) that he would be required to provide a statement to Sgt. Paterno and to fill out a form, though he did not say how long this would take. § 87(2)(b) told Sgt. Paterno that he did not

wish to wait. Sgt. Paterno then offered § 87(2)(b) other methods for filing his complaint, including the 212-PRIDE number, via email, via 311, or by coming back the stationhouse at a later time. § 87(2)(b) did not say at any point that he wished to file his complaint with Sgt. Paterno at the stationhouse. Sgt. Paterno did not refuse to take § 87(2)(b)'s complaint [14 Board Review].

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Civilian and Officer CCRB Histories

- This is the first case to which § 87(2)(b) has been a party [15 Board Review].
- Sgt. Aliffi has been a member of the service for 12 years and has been a subject in six other CCRB complaints and 21 other allegations, none of which were substantiated. § 87(2)(b)
§ 87(2)(g)
- Sgt. Paterno has been a member of the service for ten years and has been a subject in three other CCRB complaints and six other allegations, none of which were substantiated.
§ 87(2)(g)
[REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- A Notice of Claim inquiry was submitted to the Office of the New York City Comptroller on May 30, 2018. Its results will be added to the case file upon receipt [16 Board Review].
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 7

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date